

date may elect to have this section apply. Such an election shall be made at such time and in such manner as the Secretary shall prescribe. Any election under this section shall be irrevocable and shall apply to all retirement-straight line property as hereinafter provided in this section (including such property for periods when held by predecessors of the taxpayer).

“(c) RETIREMENT-STRAIGHT LINE PROPERTY DEFINED.—For purposes of this section, the term ‘retirement-straight line property’ means any property of a kind or class with respect to which the taxpayer or a predecessor (under the terms and conditions prescribed for him by the Commissioner) for any taxable year beginning after December 31, 1940, and before January 1, 1956, changed from the retirement to the straight line method of computing the allowance of deductions for depreciation.

“(d) BASIS ADJUSTMENTS AS OF 1956 ADJUSTMENT DATE.—If the taxpayer has made an election under this section, then in determining the adjusted basis on his 1956 adjustment date of all retirement-straight line property held by the taxpayer, in lieu of the adjustments for depreciation provided in section 1016(a)(2) and (3) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the following adjustments shall be made (effective as of his 1956 adjustment date) in respect of all periods before the 1956 adjustment date:

“(1) DEPRECIATION SUSTAINED BEFORE MARCH 1, 1913.—For depreciation sustained before March 1, 1913, on retirement-straight line property held by the taxpayer or a predecessor on such date for which cost was or is claimed as basis and which either—

“(A) RETIRED BEFORE CHANGEOVER.—Was retired by the taxpayer or a predecessor before the changeover date, but only if (i) a deduction was allowed in computing net income by reason of such retirement, and (ii) such deduction was computed on the basis of cost without adjustment for depreciation sustained before March 1, 1913. In the case of any such property retired during any taxable year beginning after December 31, 1929, the adjustment under this subparagraph shall not exceed that portion of the amount attributable to depreciation sustained before March 1, 1913, which resulted (by reason of the deduction so allowed) in a reduction in taxes under the Internal Revenue Code of 1986 or prior income, war-profits, or excess-profits tax laws.

“(B) HELD ON CHANGEOVER DATE.—Was held by the taxpayer or a predecessor on the changeover date. This subparagraph shall not apply to property to which paragraph (2) applies.

The adjustment determined under this paragraph shall be allocated (in the manner prescribed by the Secretary) among all retirement-straight line property held by the taxpayer on his 1956 adjustment date.

“(2) PROPERTY DISPOSED OF AFTER CHANGEOVER AND BEFORE 1956 ADJUSTMENT DATE.—For that portion of the reserve prescribed by the Commissioner in connection with the changeover which was applicable to property—

“(A) sold, or

“(B) with respect to which a deduction was allowed for Federal income tax purposes by reason of casualty or ‘abnormal’ retirement in the nature of special obsolescence,

if such sale occurred in, or such deduction was allowed for, a period on or after the changeover date and before the taxpayer’s 1956 adjustment date.

“(3) DEPRECIATION ALLOWABLE FROM CHANGEOVER TO 1956 ADJUSTMENT DATE.—For depreciation allowable, under the terms and conditions prescribed by the Commissioner in connection with the changeover, for all periods on and after the changeover date and before the taxpayer’s 1956 adjustment date.

This subsection shall apply only with respect to taxable years beginning after December 31, 1955.

“(e) EFFECT ON PERIOD FROM CHANGEOVER TO 1956 ADJUSTMENT DATE.—If the taxpayer has made an election

under this section, then in determining the adjusted basis of any retirement-straight line property as of any time on or after the changeover date and before the taxpayer’s 1956 adjustment date, in lieu of the adjustments for depreciation provided in section 1016(a)(2) and (3) of the Internal Revenue Code of 1986 and the corresponding provisions of prior revenue laws, the following adjustments shall be made:

“(1) FOR PRESCRIBED RESERVE.—For the amount of the reserve prescribed by the Commissioner in connection with the changeover.

“(2) FOR ALLOWABLE DEPRECIATION.—For the depreciation allowable under the terms and conditions prescribed by the Commissioner in connection with the changeover.

This subsection shall not apply in determining adjusted basis for purposes of section 437(c) of the Internal Revenue Code of 1939. This subsection shall apply only with respect to taxable years beginning on or after the changeover date and before the taxpayer’s 1956 adjustment date.

“(f) EQUITY INVESTED CAPITAL, ETC.—If an election is made under this section, then (notwithstanding the terms and conditions prescribed by the Commissioner in connection with the changeover)—

“(1) EQUITY INVESTED CAPITAL.—In determining equity invested capital under sections 458 and 718 of the Internal Revenue Code of 1939, accumulated earnings and profits as of the changeover date, and as of the beginning of each taxable year thereafter, shall be reduced by the depreciation sustained before March 1, 1913, as computed under subsection (d)(1)(B); and

“(2) DEFINITION OF EQUITY CAPITAL.—In determining the adjusted basis of assets for the purpose of section 437(c) of the Internal Revenue Code of 1939 (and in addition to any other adjustments required by such Code), the basis shall be reduced by depreciation sustained before March 1, 1913 (as computed under subsection (d)), together with any depreciation allowable under subsection (e)(2) for any period before the year for which the excess profits credit is being computed.

“(g) DEFINITIONS.—For purposes of this section—

“(1) DEPRECIATION.—The term ‘depreciation’ means exhaustion, wear and tear, and obsolescence.

“(2) CHANGEOVER.—The term ‘changeover’ means a change from the retirement to the straight line method of computing the allowance of deductions for depreciation.

“(3) CHANGEOVER DATE.—The term ‘changeover date’ means the first day of the first taxable year for which the changeover was effective.

“(4) 1956 ADJUSTMENT DATE.—The term ‘1956 adjustment date’ means, in the case of any taxpayer, the first day of his first taxable year beginning after December 31, 1955.

“(5) PREDECESSOR.—The term ‘predecessor’ means any person from whom property of a kind or class to which this section refers was acquired, if the basis of such property is determined by reference to its basis in the hands of such person. Where a series of transfers of property has occurred and where in each instance the basis of the property was determined by reference to its basis in the hands of the prior holder, the term includes each such prior holder.

“(6) The term ‘Secretary’ means the Secretary of the Treasury or his delegate.

“(7) The term ‘Commissioner’ means the Commissioner of Internal Revenue.”

§ 1017. Discharge of indebtedness

(a) General rule

If—

(1) an amount is excluded from gross income under subsection (a) of section 108 (relating to discharge of indebtedness), and

(2) under subsection (b)(2)(E), (b)(5), or (c)(1) of section 108, any portion of such amount is to be applied to reduce basis,

then such portion shall be applied in reduction of the basis of any property held by the taxpayer at the beginning of the taxable year following the taxable year in which the discharge occurs.

(b) Amount and properties determined under regulations

(1) In general

The amount of reduction to be applied under subsection (a) (not in excess of the portion referred to in subsection (a)), and the particular properties the bases of which are to be reduced, shall be determined under regulations prescribed by the Secretary.

(2) Limitation in title 11 case or insolvency

In the case of a discharge to which subparagraph (A) or (B) of section 108(a)(1) applies, the reduction in basis under subsection (a) of this section shall not exceed the excess of—

(A) the aggregate of the bases of the property held by the taxpayer immediately after the discharge, over

(B) the aggregate of the liabilities of the taxpayer immediately after the discharge.

The preceding sentence shall not apply to any reduction in basis by reason of an election under section 108(b)(5).

(3) Certain reductions may only be made in the basis of depreciable property

(A) In general

Any amount which under subsection (b)(5) or (c)(1) of section 108 is to be applied to reduce basis shall be applied only to reduce the basis of depreciable property held by the taxpayer.

(B) Depreciable property

For purposes of this section, the term “depreciable property” means any property of a character subject to the allowance for depreciation, but only if a basis reduction under subsection (a) will reduce the amount of depreciation or amortization which otherwise would be allowable for the period immediately following such reduction.

(C) Special rule for partnership interests

For purposes of this section, any interest of a partner in a partnership shall be treated as depreciable property to the extent of such partner’s proportionate interest in the depreciable property held by such partnership. The preceding sentence shall apply only if there is a corresponding reduction in the partnership’s basis in depreciable property with respect to such partner.

(D) Special rule in case of affiliated group

For purposes of this section, if—

(i) a corporation holds stock in another corporation (hereinafter in this subparagraph referred to as the “subsidiary”), and

(ii) such corporations are members of the same affiliated group which file a consolidated return under section 1501 for the taxable year in which the discharge occurs,

then such stock shall be treated as depreciable property to the extent that such subsidiary consents to a corresponding reduction in the basis of its depreciable property.

(E) Election to treat certain inventory as depreciable property

(i) In general

At the election of the taxpayer, for purposes of this section, the term “depreciable property” includes any real property which is described in section 1221(a)(1).

(ii) Election

An election under clause (i) shall be made on the taxpayer’s return for the taxable year in which the discharge occurs or at such other time as may be permitted in regulations prescribed by the Secretary. Such an election, once made, may be revoked only with the consent of the Secretary.

(F) Special rules for qualified real property business indebtedness

In the case of any amount which under section 108(c)(1) is to be applied to reduce basis—

(i) depreciable property shall only include depreciable real property for purposes of subparagraphs (A) and (C),

(ii) subparagraph (E) shall not apply, and

(iii) in the case of property taken into account under section 108(c)(2)(B), the reduction with respect to such property shall be made as of the time immediately before disposition if earlier than the time under subsection (a).

(4) Special rules for qualified farm indebtedness

(A) In general

Any amount which under subsection (b)(2)(E) of section 108 is to be applied to reduce basis and which is attributable to an amount excluded under subsection (a)(1)(C) of section 108—

(i) shall be applied only to reduce the basis of qualified property held by the taxpayer, and

(ii) shall be applied to reduce the basis of qualified property in the following order:

(I) First the basis of qualified property which is depreciable property.

(II) Second the basis of qualified property which is land used or held for use in the trade or business of farming.

(III) Then the basis of other qualified property.

(B) Qualified property

For purposes of this paragraph, the term “qualified property” has the meaning given to such term by section 108(g)(3)(C).

(C) Certain rules made applicable

Rules similar to the rules of subparagraphs (C), (D), and (E) of paragraph (3) shall apply for purposes of this paragraph and section 108(g).

(c) Special rules

(1) Reduction not to be made in exempt property

In the case of an amount excluded from gross income under section 108(a)(1)(A), no re-

duction in basis shall be made under this section in the basis of property which the debtor treats as exempt property under section 522 of title 11 of the United States Code.

(2) Reductions in basis not treated as dispositions

For purposes of this title, a reduction in basis under this section shall not be treated as a disposition.

(d) Recapture of reductions

(1) In general

For purposes of sections 1245 and 1250—

(A) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

(B) any reduction under this section shall be treated as a deduction allowed for depreciation.

(2) Special rule for section 1250

For purposes of section 1250(b), the determination of what would have been the depreciation adjustments under the straight line method shall be made as if there had been no reduction under this section.

(Aug. 16, 1954, ch. 736, 68A Stat. 301; Pub. L. 94-455, title XIX, §§ 1906(b)(13)(A), 1951(c)(1), Oct. 4, 1976, 90 Stat. 1834, 1840; Pub. L. 96-589, § 2(b), Dec. 24, 1980, 94 Stat. 3394; Pub. L. 99-514, title IV, § 405(b), title VIII, § 822(b)(4), (5), Oct. 22, 1986, 100 Stat. 2224, 2373; Pub. L. 100-647, title I, § 1004(a)(5), Nov. 10, 1988, 102 Stat. 3386; Pub. L. 101-508, title XI, § 11704(a)(12), Nov. 5, 1990, 104 Stat. 1388-518; Pub. L. 103-66, title XIII, § 13150(c)(6)-(8), Aug. 10, 1993, 107 Stat. 448; Pub. L. 104-188, title I, § 1703(n)(5), Aug. 20, 1996, 110 Stat. 1877; Pub. L. 105-206, title VI, § 6023(11), July 22, 1998, 112 Stat. 825; Pub. L. 106-170, title V, § 532(c)(2)(S), Dec. 17, 1999, 113 Stat. 1931.)

AMENDMENTS

1999—Subsec. (b)(3)(E)(i). Pub. L. 106-170 substituted “1221(a)(1)” for “1221(1)”.

1998—Subsec. (a)(2). Pub. L. 105-206 substituted “(b)(2)(E)” for “(b)(2)(D)”.

1996—Subsec. (b)(4)(A). Pub. L. 104-188 substituted “subsection (b)(2)(E)” for “subsection (b)(2)(D)”.

1993—Subsec. (a)(2). Pub. L. 103-66, § 13150(c)(6), substituted “, (b)(5), or (c)(1)” for “or (b)(5)”.

Subsec. (b)(3)(A). Pub. L. 103-66, § 13150(c)(7), inserted “or (c)(1)” after “subsection (b)(5)”.

Subsec. (b)(3)(F). Pub. L. 103-66, § 13150(c)(8), added subpar. (F).

1990—Subsec. (b)(4)(C). Pub. L. 101-508 substituted “subparagraphs” for “subparagraph”.

1988—Subsec. (b)(4). Pub. L. 100-647 substituted “Special rules for” for “Ordering rule in the case of” in heading, and amended text generally. Prior to amendment, text read as follows: “Any amount which is excluded from gross income under section 108(a) by reason of the discharge of qualified farm indebtedness (within the meaning of section 108(g)(2)) and which under subsection (b) of section 108 is to be applied to reduce basis shall be applied—

“(A) first to reduce the tax attributes described in section 108(b)(2) (other than subparagraph (D) thereof),

“(B) then to reduce basis of property other than property described in subparagraph (C), and

“(C) then to reduce the basis of land used or held for use in the trade or business of farming.”

1986—Subsec. (a)(2). Pub. L. 99-514, § 822(b)(4), substituted “or (b)(5)” for “, (b)(5), or (c)(1)(A)”.

Subsec. (b)(3)(A). Pub. L. 99-514, § 822(b)(5), struck out “or (c)(1)(A)” after “subsection (b)(5)”.

Subsec. (b)(4). Pub. L. 99-514, § 405(b), added par. (4).

1980—Pub. L. 96-589 generally revised and expanded the section to specify the amount of reduction of basis of property under different subsections of section 108 of this title and the property to which such reduction is applicable, and provided for recapture of reductions for purposes of gains from depreciable property.

1976—Pub. L. 94-455, §§ 1906(b)(13)(A), 1951(c)(1), substituted “section 108” for “section 108(a)” in three places and struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-170 applicable to any instrument held, acquired, or entered into, any transaction entered into, and supplies held or acquired on or after Dec. 17, 1999, see section 532(d) of Pub. L. 106-170, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103-66, §§ 13001-13444, to which such amendment relates, see section 1703(o) of Pub. L. 104-188, set out as a note under section 39 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to discharges after Dec. 31, 1992, in taxable years ending after such date, see section 13150(d) of Pub. L. 103-66, set out as a note under section 108 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 405(b) of Pub. L. 99-514 applicable to discharges of indebtedness occurring after Apr. 9, 1986, in taxable years ending after such date, see section 405(c) of Pub. L. 99-514, set out as a note under section 108 of this title.

Amendment by section 822(b)(4), (5) of Pub. L. 99-514 applicable to discharges after Dec. 31, 1986, see section 822(c) of Pub. L. 99-514, set out as a note under section 108 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 applicable to transactions which occur after Dec. 31, 1980, other than transactions which occur in a proceeding in a bankruptcy case or similar judicial proceeding or in a proceeding under Title 11 commencing on or after Dec. 31, 1980, with an exception permitting the debtor to make the amendment applicable to transactions occurring after Sept. 30, 1979 in a specified manner, see section 7(a) and (f) of Pub. L. 96-589, set out as a note under section 108 of this title.

[§ 1018. Repealed. Pub. L. 96-589, § 6(h)(1), Dec. 24, 1980, 94 Stat. 3410]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 301; Oct. 4, 1976, Pub. L. 94-455, title XIX, § 1901(a)(124), 90 Stat. 1784, provided for adjustment of capital structure before Sept. 22, 1938.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1979, but not to apply to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as